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**From:** Henning, Alan  
**To:** Wu, Jennifer  
**Sent:** 5/8/2014 10:50:02 AM  
**Subject:** RE: Where Riparian Rule Applies

Jenny,

Do you know when you are talking with Rochelle? I would like to join you guys for the conversation. My schedule is open.

Alan

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**From:** Wu, Jennifer  
**Sent:** Wednesday, May 7, 2014 5:28 PM  
**To:** Henning, Alan  
**Subject:** RE: Where Riparian Rule Applies

Hey Alan – FYI, I’m talking with Rochelle tomorrow for some tweaks to what we send to DEQ and ODF. Let me know if you want to send the email or me. I don’t know who to send it to at ODF.

If ODF and ODEQ limited it to 303(d) listed waters, that would pare things back a lot. I thought that was what OFIC was asking for though.

We just got out of a somewhat tough meeting with NWEA on the Oregon TMDL litigation. More info to come on that later, but I’ll try to connect with you tomorrow. We can follow up on what needs to be done for prepping for the EQC and BOF meetings.

**Ex. 5 - Attorney Client**

Talk to you soon - Jenny

**From:** Henning, Alan  
**Sent:** Wednesday, May 07, 2014 4:04 PM  
**To:** Wu, Jennifer; Labiosa, Rochelle  
**Subject:** RE: Where Riparian Rule Applies

Jenny and Rochelle,

I agree that this is what I heard Josh say, but I am not so certain that ODF is committed to this. I think they are, but I am just not sure. Today, during our discussion with NWEA about CZARA, Nina indicated that she heard that ODF would only be applying the new R rules to the type M and S fish streams where the streams are 303(d) listed. While I had heard rumor of this concept awhile back, I thought it had died. Josh and the ODF folks have not discussed this approach at all with us.

**Ex. 5 - Deliberative**

this issue. That said, I agree with Jenny's suggestion to send what she has put together to both DEQ and ODF staff for their response. Also, are John and Dru ok with the State's approach as captured by Jenny?

In addition, attached is a list of questions from one of the Board of Forestry members that will be addressed at the Board's workshop. Addressing the questions will help the newer Board members get up to speed on the history of the riparian rule and PCW. These are questions we want to be prepared to answer for the Board Meeting on 6/23. Take a look and we'll set up a time to talk about the them. We do have an opportunity to add questions to this list. Keep that in mind when reviewing the questions. Also, it is highly likely that other Board members will have a list of questions for the discussion as well.

Alan

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**From:** Wu, Jennifer  
**Sent:** Wednesday, May 7, 2014 1:29 PM  
**To:** Labiosa, Rochelle; Henning, Alan  
**Subject:** Where Riparian Rule Applies

Hi Rochelle and Alan,

Here's where I heard DEQ and ODF would apply the Riparian Rule.

- 1) Where threatened and endangered (T&E) species existed or have existed based on ODFW distribution maps;
- 2) Maps will also be expanded to include areas where T&E species exist up to a natural barrier;
- 3) Riparian Rule will extend upstream of where T&E species exist or have existed, such that riparian cuts upstream of these areas will not result in a 0.3oC impact downstream where T&E species are present;
- 4) Rules will also apply where there are critical habitat.

If this is the case, I think in our meetings in EPA, we agreed that these areas would cover where PCW apply and would be reasonable from a Clean Water Act perspective. I suggest we send this to DEQ and have them either add to this or send their own information on where they plan to apply their Riparian Rule. Thoughts?

Jenny Wu  
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